

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In Re Estate of

THE JAMES D. GARRED
REVOCABLE LIVING TRUST

No.

NOTICE OF REMOVAL
(28 U.S.C. § 1441)

KELLY G. MERRILL, as Trustee of the James
D. Garred Revocable Living Trust, Credit
Shelter Trust Created by the James D. Garred
Revocable Living Trust and the Marital Trust
Created by the James D. Garred Revocable
Trust,

Petitioner,

v.

CHRISTOPHER MOORE, an individual; and
CREASON, MOORE, DOKKEN & GEIDL,
PLLC, an Idaho Limited Liability Company,

Respondents.

Pursuant to 28 U.S.C. § 1441, Respondents Creason, Moore, Dokken & Geidl, PLLC and
Christopher J. Moore remove the above-captioned action from King County Superior Court to
the United States District Court for the Western District of Washington at Seattle.

1 **A. JURISDICTION**

2 This Court has diversity jurisdiction under 28 U.S.C. § 1332 because the Petitioner is a
3 citizen of Washington and Respondents are citizens of Idaho, and the amount in controversy
4 exceeds \$75,000, as follows:

5 **(i) Citizenship**

6 Petitioner is Ms. Kelly G. Merrill, as Trustee of the James D. Garred Revocable Living
7 Trust, and the associated Credit Shelter Trust and Marital Trust created by the James D. Garred
8 Revocable Trust (together “Trusts”). For diversity purposes, a trust has the citizenship of its
9 trustee. Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006).

10 Ms. Merrill resides in Snohomish County, Washington, and therefore is believed to be a citizen
11 of Washington. See p. 3 ¶ 2 of Petition to Recover Damages (hereafter “Petition”), attached as
12 Exhibit A to the Declaration of Steven C. Minson in Support of Removal (“Minson Decl.”).

13 Respondent Christopher Moore is domiciled in and a citizen of Idaho. Declaration of
14 Christopher J. Moore in Support of Removal (“Moore Decl.”) ¶ 1.

15 Respondent Creason, Moore, Dokken & Geidl, PLLC (“Creason firm”) is a professional
16 limited liability company with offices in Lewiston, Idaho. Moore Decl. ¶ 2. For diversity
17 purposes, a limited liability company is a citizen of every state of which its members are citizens.
18 Johnson v. Columbia Props., 437 F.3d at 899. In addition to Mr. Moore, there are three other
19 members of the Creason firm: Theodore O. Creason; David E. Dokken; and Tod D. Geidl.
20 Moore Decl. ¶ 2. Messrs. Creason, Dokken, and Geidl are all domiciled in and citizens of Idaho.
21 Id.

22 **(ii) Amount in Controversy**

23 Petitioner claims that, through legal malpractice and related torts, respondents have
24 damaged the Trusts in excess of \$1.5 million. Minson Decl., Ex. A, p. 22 ¶ 8.

1 **B. SERVICE OF INITIAL PLEADING**

2 Respondents Christopher Moore and the Creason firm were served with a copy of the
3 Petition to Recover Damages on January 30, 2012. This Notice of Removal is, therefore, timely
4 filed with this Court within 30 days of such service as required by 28 U.S.C. § 1446(b). See
5 Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999).

6 **C. CONSENT**

7 Both Respondents have consented to and are joining in this removal.

8 **D. NOTICE**

9 Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on
10 Petitioner's counsel and a copy is being filed with the Clerk of the Superior Court of the State of
11 Washington for King County.

12 **E. STATE COURT FILE**

13 The only process, pleadings, or orders served by or upon Moore and the Creason firm in
14 the state court proceeding are the Petition to Recover Damages, a related Summons, declarations
15 from Ms. Merrill and her counsel, and Ms. Merrill's Motion to Assign New Cause Number. True
16 and correct copies of the Summons, the Petition, the declarations from Ms. Merrill and her
17 counsel, and the Motion to Assign New Cause Number are attached to the Minson Decl. as Exs.
18 A - G.

19 Also, in January 2011, Ms. Merrill filed a petition to remove her stepmother, Patti Jo
20 Garred, as trustee and to obtain an accounting and related relief under King County Cause No. 11-
21 4-00909-0 SEA. Minson Decl., Ex. H.

22 In May 2011, Ms. Merrill filed a petition to probate her father's will under King County
23 Cause No. 11-4-03722-1 SEA. Id., Ex. I.

24 Thereafter, Ms. Merrill obtained an order consolidating both the probate matter and the
25 proceedings against her stepmother under Cause No. 11-4-03722-1 SEA. Id., Ex. J.

1 Then, on January 27, 2012, under the same King County Cause Number, 11-4-03722-1
2 SEA, Ms. Merrill filed her Petition against Respondents Christopher Moore and the Creason
3 firm. Id. Ex. A.

4 This notice of removal does *not* remove Petitioner's ongoing probate or petition for relief
5 against Ms. Garred. This removal affects *only* the Petition to Recover Damages filed against
6 Respondents Moore and the Creason firm. Id.

7 WHEREFORE, Respondents Christopher Moore and Creason, Moore, Dokken & Geidl,
8 PLLC remove the Petition against them, and only that Petition, to this Court from King County
9 Superior Court.

10 DATED this 23rd day of February, 2012.

11 BYRNES KELLER CROMWELL LLP

12
13 By /s/ Bradley S. Keller

By /s/ Paul R. Taylor

14 By /s/ Steven C. Minson

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Attorneys for Respondents

Christopher Moore, and Creason, Moore, Dokken &
Geidl, PLLC

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 23rd day of February, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. On the same date I also caused the foregoing to be served as follows:

VIA HAND DELIVERY

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